

Agricultural Marketing Service, USDA

§ 1064.2

PARTS 1051–1063 [RESERVED]

PART 1064—MILK IN THE GREATER KANSAS CITY MARKETING AREA

Subpart—Order Regulating Handling

GENERAL PROVISIONS

Sec.

1064.1 General provisions.

DEFINITIONS

1064.2 Greater Kansas City marketing area.
1064.3 Route disposition.
1064.5 Distributing plant.
1064.6 Supply plant.
1064.7 Pool plant.
1064.8 Nonpool plant.
1064.9 Handler.
1064.10 Producer-handler.
1064.12 Producer.
1064.13 Producer milk.
1064.14 Other source milk.
1064.15 Fluid milk product.
1064.16 Fluid cream product.
1064.17 Filled milk.
1064.18 Cooperative association.
1064.19 Commercial food processing establishment.

HANDLER REPORTS

1064.30 Reports of receipts and utilization.
1064.31 Payroll reports.
1064.32 Other reports.

CLASSIFICATION OF MILK

1064.40 Classes of utilization.
1064.41 Shrinkage.
1064.42 Classification of transfers and diversions.
1064.43 General classification rules.
1064.44 Classification of producer milk.
1064.45 Market administrator's reports and announcements concerning classification.

CLASS PRICES

1064.50 Class prices.
1064.51 Basic formula price.
1064.52 Plant location adjustments for handlers.
1064.53 Announcement of class prices.
1064.54 Equivalent price.

UNIFORM PRICE

1064.60 Handler's value of milk for computing uniform price.
1064.61 Computation of uniform price (including weighted average price).
1064.62 Announcement of uniform price and butterfat differential.

PAYMENTS FOR MILK

1064.70 Producer-settlement fund.

1064.71 Payments to the producer-settlement fund.
1064.72 Payments from the producer-settlement fund.
1064.73 Payments to producers and to cooperative associations.
1064.74 Butterfat differential.
1064.75 Plant location adjustments for producers and on nonpool milk.
1064.76 Payments by handler operating a partially regulated distributing plant.
1064.77 Adjustment of accounts.
1064.78 Charges on overdue accounts.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

1064.85 Assessment for order administration.
1064.86 Deduction for marketing services.

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Subpart—Order Regulating Handling

GENERAL PROVISIONS

§ 1064.1 General provisions.

The terms, definitions, and provisions in part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

DEFINITIONS

§ 1064.2 Greater Kansas City marketing area.

Greater Kansas City marketing area, hereinafter called “marketing area,” means all the territory within the boundaries of the counties listed below, including territory within such boundaries occupied by government (municipal, State, or Federal) reservations, installations, institutions, or other similar establishments:

MISSOURI COUNTIES

Andrew, Atchison, Bates, Buchanan, Cass, Clay, Clinton, Daviess, De Kalb, Gentry, Henry, Holt, Jackson, Johnson, Lafayette, Nodaway, Pettis, Platte, St. Clair, Worth.

KANSAS COUNTIES

Atchison, Brown, Clay, Cloud, Dickinson, Doniphan, Douglas, Geary, Jackson, Jefferson, Johnson, Leavenworth,

Lyon, Marshall, Miami, Morris, Nemaha, Ottawa, Pottawatomie, Republic, Riley, Saline, Shawnee, Wabaunsee, Washington, Wyandotte.

§ 1064.3 Route disposition.

Route disposition means a delivery (either direct or through a distributing facility such as a distribution point, a plant store, a vendor, or vending machine), other than a delivery to a pool plant or a nonpool plant, of a fluid milk product classified as Class I milk.

§ 1064.5 Distributing plant.

Distributing plant means a plant from which during the month there is route disposition in the marketing area of Grade A fluid milk products that are processed or packaged in such plant.

§ 1064.6 Supply plant.

Supply plant means a plant from which a Grade A fluid milk product is shipped during the month to a pool plant.

§ 1064.7 Pool plant.

Except as provided in paragraph (d) of this section, *pool plant* means:

(a) A distributing plant from which during the month or the immediately preceding month there is:

(1) Route disposition, except filled milk, in the marketing area that is not less than 15 percent of the total Grade A fluid milk products, except filled milk, received at such plant, including producer milk diverted to other plants pursuant to § 1064.13 by the handler operating such plant; and

(2) Route disposition, except filled milk, that is not less than the following percentage of the total Grade A fluid milk products, except filled milk, received at such plant, including producer milk diverted to other plants pursuant to § 1064.13 by the handler operating such plant: *Provided*, That the combined receipts and disposition of each handler who operates more than one distributing plant, each of which meets the performance requirements of paragraph (a)(1) of this section, shall be used in determining the percentages specified in this subparagraph:

(i) April through June, 35 percent;

(ii) September and October, 50 percent; and

(iii) All other months, 45 percent.

(b) A supply plant from which during the month 50 percent or more of the Grade A milk received at such plant from dairy farmers and handlers described in § 1064.9(c) (including milk diverted from such plant pursuant to § 1064.13(c) but excluding milk diverted to such plant pursuant to § 1064.13(c)) is shipped from such plant as fluid milk products, except filled milk, to and received at pool distributing plants, subject to the following conditions:

(1) A supply plant which is a pool plant under this paragraph during each month of September through January shall be pooled for the following months of February through August if the required percentage pursuant to this paragraph is not met, unless the plant operator files a written request with the market administrator that such plant not be a pool plant, such nonpool status to be effective the first month following such request and thereafter until the plant qualifies as a pool plant on the basis of shipments;

(2) The shipping percentage specified in this paragraph may be increased or decreased temporarily for any of the months of September through January up to 20 percentage points by the Director of the Dairy Division if the Director finds such revision is necessary to obtain needed shipments or to prevent uneconomic shipments. For any of the months of February through August, a minimum shipping percentage of up to 20 percent may be established by the Director for all pool supply plants that are qualified as a pool plant pursuant to paragraph (b)(1) of this section. Before making such a finding the Director shall investigate the need for revision, either at the Director's initiative or at the request of interested persons. If the investigation shows that a revision might be appropriate, the Director shall issue a notice stating that revision is being considered and inviting data, views, and arguments. If a plant which would not otherwise qualify as a pool plant during the month qualifies as a pool plant because of a reduction in shipping requirements pursuant to this subparagraph, such plant shall be a nonpool plant for such month if the operator of the plant files

a written request for nonpool plant status with the market administrator at the time the report is filed for such plant pursuant to § 1064.30,

(c) A supply plant operated by a cooperative association in any month in which the member producer milk of such cooperative association received at pool distributing plants during the current month, or immediately preceding 12-month period ending with the current month, either by transfer from such supply plant or directly from member producers' farms, is 50 percent or more of such cooperative's total member producer milk. Such direct deliveries from member producers' farms shall be considered as having been received first at the plant of such cooperative association for the purpose of determining the qualification of such plant as a pool plant pursuant to this paragraph. If two or more cooperative associations desire to qualify a supply plant operated by one of the associations as a pool plant on the basis of their combined deliveries to pool distributing plants and have filed a written request to this effect with the market administrator on or before the first day of the month the agreement is effective, such a supply plant shall be a pool plant during the month if the above specified percentage of the total member producer milk of such cooperative associations was received at pool distributing plants during the current month, or the immediately preceding 12-month period ending with the current month.

(d) The term "pool plant" shall not apply to the following plants:

- (1) A producer-handler plant;
- (2) A distributing plant or supply plant operated by a State educational institution;
- (3) A plant from which there is route disposition in the marketing area of less than an average of 600 pounds per day;
- (4) A distributing plant qualified pursuant to paragraph (a) of this section which also meets the pooling requirements of another Federal order and from which during the month a greater volume of fluid milk products, except filled milk, was disposed of as route disposition in such other marketing area and to pool plants qualified on the

basis of route disposition in such other marketing area than was so disposed of in this marketing area except that if such plant was subject to all the provisions of this part in the immediately preceding month, it shall continue to be subject to all the provisions of this part until the third consecutive month in which a greater proportion of its fluid product disposition, except filled milk, is made in the above described manner in such other marketing area, unless, notwithstanding the provisions of this subparagraph, it is regulated under such other order;

(5) A distributing plant qualified pursuant to paragraph (a) of this section which also meets the pooling requirements of another Federal order and from which during the month a greater volume of fluid milk products, except filled milk, was disposed of as route disposition in this marketing area and to pool plants qualified on the basis of route disposition in this marketing area than was so disposed of in such other Federal order marketing area but which plant is, nevertheless, fully regulated under such other Federal order;

(6) A supply plant meeting the pooling requirements of paragraph (b) of this section which also meets the pooling requirements of another Federal order, and which has greater qualifying shipments to plants regulated under such other order than are made under this order, unless during any month of February through August automatic pool plant status for such plant is retained under this part for such month; and

(7) A supply plant which would be subject to the classification and pricing provisions of another order issued pursuant to the Act, unless such plant also qualified as a pool plant pursuant to paragraph (c) of this section.

[39 FR 16260, May 8, 1974, as amended at 45 FR 3878, Jan. 21, 1980]

§ 1064.8 Nonpool plant.

Nonpool plant means any milk or filled milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) *Other order plant* means a plant that is fully subject to the pricing and

pooling provisions of another order issued pursuant to the Act.

(b) *Producer-handler plant* means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) *Partially regulated distributing plant* means a nonpool plant (except the plant of a handler pursuant to § 1064.9(h), an other order plant, or a producer-handler plant) from which there is route disposition in consumer-type packages or dispenser units in the marketing area during the month.

(d) *Unregulated supply plant* means a nonpool plant which is not an other order plant, a producer-handler plant, or a plant of a handler pursuant to § 1064.9(h) from which a fluid milk product is shipped during the month to a pool plant.

§ 1064.9 Handler.

Handler means:

(a) Any person in his capacity as the operator of a pool plant;

(b) Any cooperative association with respect to producer milk which it causes to be diverted pursuant to § 1064.13 for the account of such cooperative association;

(c) Any cooperative association with respect to the milk of its producers which is received by the cooperative from the farm for delivery to the pool plant of another handler in a tank truck owned or operated by or under contract to such cooperative association if the cooperative association, prior to delivery, notifies the market administrator in writing that it will be the handler for the milk. Such milk shall be considered to have been received at the location of the pool plant to which delivery is made;

(d) Any person who operates a partially regulated distributing plant;

(e) A producer-handler;

(f) Any person who operates an other order plant that is either a distributing plant or a supply plant;

(g) Any person who operates an unregulated supply plant; and

(h) A State educational institution which operates either a nonpool distributing plant or supply plant.

§ 1064.10 Producer-handler.

Producer-handler means a person who operates both a dairy farm and a distributing plant at which each of the following conditions is met during the month:

(a) Milk is received from the dairy farm of such person but from no other dairy farm;

(b) The butterfat or skim milk disposed of in the form of a fluid milk product does not exceed the butterfat or skim milk, respectively, received in the form of milk from the dairy farm of such person and in the form of a fluid milk product from pool plants of other handlers; and

(c) Such person shall furnish proof satisfactory to the market administrator that the care and management of the dairy animals and other resources necessary for the production of milk in his name and the operation of the processing and packaging business are the personal enterprise and risk of such person.

§ 1064.12 Producer.

(a) Except as provided in paragraph (b) of this section, *producer* means any person who produces milk in compliance with Grade A inspection requirements of a duly constituted health authority, which milk is received at a pool plant or diverted pursuant to § 1064.13.

(b) “Producer” shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act or a handler pursuant to § 1064.9(h);

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1064.44(a)(8)(iii) and the corresponding step of § 1064.44(b); and

(3) Any person with respect to milk produced by him which is reported as diverted to an other order plant if any portion of such person's milk so moved is assigned to Class I under the provisions of such other order.

§ 1064.13 Producer milk.

Producer milk means the skim milk and butterfat contained in Grade A milk of a producer which is:

(a) Received at a pool plant directly from a producer or a handler described in § 1064.9(c);

(b) Received by a handler described in § 1064.9(c) from producers in excess of the quantity delivered to pool plants; or

(c) Diverted, subject to the following conditions, from a pool distributing plant to a pool supply plant or from a pool plant to a nonpool plant that is not a producer-handler plant. *Diverted milk* is milk normally received at a pool plant but which is moved directly from a dairy farm to a nonpool plant as specified in this paragraph or from a pool distributing plant to a pool supply plant for the account of a handler operating the pool distributing plant or a handler described in § 1064.9(b). Such milk shall be deemed to have been received by the diverting handler at the location of the pool plant from which diverted except that milk diverted to a plant located more than 125 miles by the shortest highway distance as determined by the market administrator from the nearest of the City Halls of Kansas City, Missouri, or Topeka, Kansas, shall be deemed to have been received at the location of the plant to which diverted in applying §§ 1064.52 and 1064.75:

(1) A handler described in § 1064.9(b) may divert for its account the milk of any member producer whose milk is received at a pool plant for at least 1 day's delivery during the month, without limit during the other days of the month. The total quantity of milk so diverted may not exceed the larger of the following amounts:

(i) The total quantity of its member producer milk received at all pool plants during the current month, or

(ii) The average daily quantity of its member producer milk received at pool plants during the previous month, multiplied by the number of days in the current month.

(2) A handler operating a pool plant may divert for his account the milk of any producer, other than a member of a cooperative association which has diverted milk pursuant to paragraph

(c)(1) of this section, whose milk is received at the handler's pool plant for at least 1 day's delivery during the month, without limit during the other days of the month. However, the total quantity of milk so diverted may not exceed the larger of the following amounts:

(i) The total quantity of milk received at such plant during the current month from producers who are not members of a cooperative association that has diverted milk pursuant to paragraph (c)(1) of this section; or

(ii) The average daily quantity of milk received at such plant during the previous month from producers who are not members of a cooperative association that has diverted milk in the current month pursuant to paragraph (c)(1) of this section, multiplied by the number of days in the current month.

(3) Diversions in excess of the applicable percentages pursuant to paragraphs (c)(1) and (2) of this section shall first be assigned to diversions to nonpool plants and any excess quantity assigned to nonpool plants shall not be producer milk and shall not be deemed to have been received by the diverting handler. The diverting handler shall specify the dairy farmers whose milk shall not be included as producer milk pursuant to this subparagraph. Excess diversions to a pool supply plant shall be producer milk at the supply plant in applying §§ 1064.7, 1064.52 and 1064.75.

[39 FR 16260, May 8, 1974, as amended at 45 FR 3879, Jan. 21, 1980]

§ 1064.14 Other source milk.

Other source milk means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1064.40(b)(1) from any source other than producers, handlers described in § 1064.9(c), or pool plants;

(b) Receipts in packaged form from other plants of products specified in § 1064.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1064.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another

§ 1064.15

product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in §1064.40(b)(1)) for which the handler fails to establish a disposition.

§ 1064.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section *fluid milk product* means any milk products in fluid or frozen form containing less than 9 percent butterfat, that are in bulk or are packaged, distributed and intended to be used as beverages. Such products include, but are not limited to: Milk, skim milk, lowfat milk, milk drinks, buttermilk, and filled milk, including any such beverage products that are flavored, cultured, modified with added nonfat milk solids, sterilized, concentrated (to not more than 50 percent total milk solids), or reconstituted.

(b) The term *fluid milk product* shall not include:

(1) Plain or sweetened evaporated milk, plain or sweetened evaporated skim milk, sweetened condensed milk or skim milk, formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

[58 FR 27846, May 11, 1993]

§ 1064.16 Fluid cream product.

Fluid cream product means cream (other than plastic cream or frozen cream), including sterilized cream, or a mixture of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

[58 FR 27846, May 11, 1993]

§ 1064.17 Filled milk.

Filled milk means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted,

7 CFR Ch. X (1–1–98 Edition)

or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

§ 1064.18 Cooperative association.

Cooperative association means any cooperative marketing association of producers which the Secretary determines after application by the association:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To have full authority in the sale of milk of its members and is engaged in making collective sales of or marketing milk or milk products for its members.

§ 1064.19 Commercial food processing establishment.

Commercial food processing establishment means any facility other than a milk or filled milk plant, to which bulk fluid milk products and bulk fluid cream products are disposed of, or producer milk is diverted, that uses such receipts as ingredients in food products and has no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages. Producer milk diverted to commercial food processing establishments shall be subject to the same provisions relating to diversions to plants, including but not limited to, provisions in §§ 1064.13, 1064.41 and 1064.52.

[58 FR 27846, May 11, 1993]

HANDLER REPORTS

§ 1064.30 Reports of receipts and utilization.

On or before the seventh day after the end of each month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1064.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1064.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1064.9(b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

§ 1064.31 Payroll reports.

(a) On or before the 23rd day after the end of each month, each handler described in § 1064.9(a), (b), and (c) shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1064.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1064.32 Other reports.

(a)-(b) [Reserved]

(c) Each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

[39 FR 16260, May 8, 1974, as amended at 40 FR 27641, July 1, 1975]

CLASSIFICATION OF MILK

§ 1064.40 Classes of utilization.

Except as provided in § 1064.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1064.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section;

(2) In packaged fluid milk products in inventory at the end of the month; and

(3) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product or any product containing artificial fat, fat substitutes, or 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section and in bulk concentrated fluid milk products in inventory at the end of the month;

(3) In bulk fluid milk products and bulk fluid cream products disposed of

or diverted to a commercial food processor if the market administrator is permitted to audit the records of the commercial food processing establishment for the purpose of verification. Otherwise, such uses shall be Class I;

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, dry curd cottage cheese, ricotta cheese, pot cheese, Creole cheese, and any similar soft, high-moisture cheese resembling cottage cheese in form or use;

(ii) Milkshake and ice milk mixes (or bases), frozen desserts, and frozen dessert mixes distributed in one-quart containers or larger and intended to be used in soft or semi-solid form;

(iii) Aerated cream, frozen cream, sour cream and sour half-and-half, sour cream mixtures containing nonmilk items, yogurt and any other semi-solid product resembling a Class II product;

(iv) Eggnog, custards, puddings, pancake mixes, buttermilk biscuit mixes, coatings, batter, and similar products;

(v) Formulas especially prepared for infant feeding or dietary use (meal replacement) that are packaged in hermetically sealed containers;

(vi) Candy, soup, bakery products and other prepared foods which are processed for general distribution to the public, and intermediate products, including sweetened condensed milk, to be used in processing such prepared food products; and

(vii) Any product not otherwise specified in this section.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cream cheese and other spreadable cheeses, and hard cheeses of types that may be shredded, grated, or crumbled, and are not included in paragraph (b)(4)(i) of this section;

(ii) Butter, plastic cream, anhydrous milkfat and butteroil;

(iii) Any milk product in dry form;

(iv) Evaporated or sweetened condensed milk in a consumer-type package and evaporated or sweetened condensed skim milk in a consumer-type package; and

(2) In inventory at the end of the month of unconcentrated fluid milk products in bulk form and products

specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products, products specified in paragraph (b)(1) of this section, and products processed by the disposing handler that are specified in paragraphs (b)(4) (i) through (iv) of this section, that are disposed of by a handler for animal feed;

(4) In fluid milk products, products specified in paragraph (b)(1) of this section, and products processed by the disposing handler that are specified in paragraphs (b)(4) (i) through (iv) of this section, that are dumped by a handler. The market administrator may require notification by the handler of such dumping in advance for the purpose of having the opportunity to verify such disposition. In any case, classification under this paragraph requires a handler to maintain adequate records of such use. If advance notification of such dumping is not possible, or if the market administrator so requires, the handler must notify the market administrator on the next business day following such use;

(5) In fluid milk products and products specified in paragraph (b)(1) of this section that are destroyed or lost by a handler in a vehicular accident, flood, fire, or in a similar occurrence beyond the handler's control, to the extent that the quantities destroyed or lost can be verified from records satisfactory to the market administrator;

(6) In skim milk in any modified fluid milk product or in any product specified in paragraph (b)(1) of this section that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to §1064.15 and the fluid cream product definition pursuant to §1064.16; and

(7) In shrinkage assigned pursuant to §1064.41(a) to the receipts specified in §1064.41(a)(2) and in shrinkage specified in §1064.41 (b) and (c).

[58 FR 27846, May 11, 1993]

§ 1064.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to §1064.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraphs (b)(1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraphs (b)(1) through (6) of this section which was received in the form of a bulk fluid milk product or a bulk fluid cream product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant and milk received from a handler described in § 1064.9(c));

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1064.9(c) and in milk diverted to such plant from another pool plant, except that, in either case, if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by trans-

fer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraphs (b) (1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1064.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

§ 1064.42 Classification of transfers and diversions.

(a) *Transfers and diversions to pool plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant (to a pool supply plant, in the case of diversion) shall be classified as Class I milk unless the operators of both plants request the same classification in another class. In either case, the classification of such transfers or diversions shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant or divertee-plant after the computations pursuant to § 1064.44(a)(12) and the corresponding step of § 1064.44(b). The

amount of skim milk or butterfat classified in each class shall include the assigned utilization of skim milk or butterfat in transfers of concentrated fluid milk products;

(2) If the transferor-plant or divertor-plant received during the month other source milk to be allocated pursuant to § 1064.44(a)(7) or the corresponding step of § 1064.44(b), the skim milk or butterfat so transferred or diverted shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler or divertor-handler received during the month other source milk to be allocated pursuant to § 1064.44(a)(11) or (12) or the corresponding steps of § 1064.44(b), the skim milk or butterfat so transferred or diverted, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant or divertee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b) (1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators; transfers or di-

versions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1064.40.

(c) *Transfers to producer-handlers and transfers and diversions to a State educational institution plant.* Skim milk or butterfat in the following forms that is transferred from a pool plant to a producer-handler under this or any other Federal order or transferred or diverted from a pool plant to a plant of a handler described in § 1064.9(h) shall be classified:

(1) As Class I milk, if so moved in the form of a fluid milk product, except that if a handler described in § 1064.9(h) certifies that the fluid milk product is acquired for use in Class II or Class III products for research or educational purposes, such fluid milk product shall be classified in the applicable lower class; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the transferee's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat,

respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant, a producer-handler plant, or a plant of a handler pursuant to §1064.9(h) shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraphs (d)(2)(i) (a) and (b) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraphs (d)(2) (ii) through (viii) of this section:

(a) The transferor-handler or diverter-handler claims such classification in his report of receipts and utilization filed pursuant to §1064.30 for the month within which such transaction occurred; and

(b) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(a) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(b) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(c) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(d) Pro rata to any remaining unassigned receipts of bulk fluid milk prod-

ucts at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of package fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(a) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(b) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(a) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(b) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class II utilization, and then to Class III utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class II utilization,

§ 1064.43

then to any remaining Class III utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

[39 FR 16260, May 8, 1974, as amended at 58 FR 27847, May 11, 1993]

§ 1064.43 General classification rules.

In determining the classification of producer milk pursuant to § 1064.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1064.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1064.9 (b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1064.40, 1064.41, and 1064.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1064.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

(d) Skim milk and butterfat contained in receipts of bulk concentrated fluid milk and nonfluid milk products that are reconstituted for fluid use shall be assigned to Class I use, up to the reconstituted portion of labeled reconstituted fluid milk products, on a pro rata basis (except for any Class I

7 CFR Ch. X (1–1–98 Edition)

use of specific concentrated receipts that is established by the handler) prior to any assignments under § 1064.44. Any remaining skim milk and butterfat in concentrated receipts shall be assigned to uses under § 1064.44 on a pro rata basis, unless a specific use of such receipts is established by the handler.

[39 FR 16260, May 8, 1974, as amended at 58 FR 27847, May 11, 1993]

§ 1064.44 Classification of producer milk.

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1064.9(a) for each of his pool plants separately and of each handler described in § 1064.9 (b) and (c) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1064.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in:

(i) Receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(ii) Packaged fluid milk products in inventory at the beginning of the month. This paragraph shall apply only if the pool plant was subject to the provisions of this paragraph or comparable provisions of another Federal milk order in the immediately preceding month;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1064.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1064.40(b)(1) in packaged form and in bulk concentrated fluid milk products that were in inventory at the beginning of the month, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in bulk concentrated fluid milk products and in other source milk (except other source milk received in the form of an unconcentrated fluid milk product or a fluid cream product) that is used to produce, or added to any product specified in § 1064.40(b) (excluding the quantity of such skim milk that was classified as Class III milk pursuant to § 1064.40(c)(6)), but not in excess of the pounds of skim milk remaining in Class II.

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Bulk concentrated fluid milk products and other source milk (except other source milk received in the form of an unconcentrated fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1064.40(b)(1) that was not subtracted pursuant to paragraphs (a)(4), (a)(5) and (a)(6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order and from a handler described in § 1064.9(h);

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2)(i) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraphs (a)(2)(i) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraphs (a)(2)(i), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraphs (a)(8)(ii) (a) through (c) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall

be adjusted in the reverse direction by a like amount:

(a) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler (excluding any duplication of Class I utilization resulting from reported Class I transfers between pool plants of the handler);

(b) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(c) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in §1064.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraphs (a)(2)(ii), (a)(5) and (a)(7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraphs (a)(11) (i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation

step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler), with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraphs (a)(2)(i), (7)(v), and (8)(i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from Class II and Class III combined pursuant to this subparagraph exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraphs (a)(7)(vi) and (8)(iii) of this section:

(i) Subject to the provisions of paragraphs (a)(12)(ii), (iii), and (iv) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(a) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1064.45(a); or

(b) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler);

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received;

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class II and Class III combined that exceeds the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available

utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(iv) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class I that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount beginning with the nearest plant at which Class I utilization is available;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1064.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph (a)(14)

§ 1064.45

of this section and the corresponding step of paragraph (b) of this section.

[39 FR 16260, May 8, 1974, as amended at 58 FR 27847, May 11, 1993]

§ 1064.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1064.44(a)(12) and the corresponding step of § 1064.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to §§ 1064.43(d) and 1064.44 on the basis of such report (including any reclassification of inventories of bulk concentrated fluid milk products), and thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 14th day after the end of each month, report to each cooperative association which so requests the amount and class utilization of milk received by each handler from such cooperative association in its capacity as a handler described in § 1064.9(c) and directly from members of such cooperative association. For the

7 CFR Ch. X (1–198 Edition)

purpose of this report, the milk so received shall be prorated to each class in proportion to the utilization by such handler in each class remaining after the allocation pursuant to § 1064.44(a)(1) through (13) and the corresponding steps of § 1064.44(b).

[39 FR 16260, May 8, 1974, as amended at 58 FR 27848, May 11, 1993]

CLASS PRICES

§ 1064.50 Class prices.

Subject to the provisions of § 1064.52, the class prices for the month per hundredweight of milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.* From the effective date hereof through April 30, 1988, and thereafter until amended, the Class I price shall be the basic formula price for the second preceding month plus \$1.92.

(b) *Class II price.* The Class II price shall be the basic formula price for the second preceding month plus \$0.30.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

[39 FR 16260, May 8, 1974, as amended at 46 FR 43383, Aug. 28, 1981; 51 FR 12832, Apr. 16, 1986; 60 FR 6610, Feb. 2, 1995]

§ 1064.51 Basic formula price.

The basic formula price shall be the preceding month's average pay price for manufacturing grade milk in Minnesota and Wisconsin using the "base month" series, as reported by the Department, adjusted to a 3.5 percent butterfat basis using the butterfat differential for the preceding month computed pursuant to § 1064.74 and rounded to the nearest cent, plus or minus the change in gross value yielded by the butter-nonfat dry milk and Cheddar cheese product price formula computed pursuant to paragraphs (a) through (e) of this section.

(a) The gross values of per hundredweight of milk used to manufacture butter-nonfat dry milk and Cheddar cheese shall be computed, using price data determined pursuant to paragraph (b) of this section and annual yield factors, for the preceding month and separately for the current month as follows:

(1) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

- (i) Multiply the Grade AA butter price by 4.27;
- (ii) Multiply the nonfat dry milk price by 8.07; and
- (iii) Multiply the dry buttermilk price by 0.42.

(2) The gross value of milk used to manufacture Cheddar cheese shall be the sum of the following computations:

- (i) Multiply the Cheddar cheese price by 9.87; and
- (ii) Multiply the Grade A butter price by 0.238.

(b) The following product prices shall be used pursuant to paragraph (a) of this section:

(1) *Grade AA butter price.* Grade AA butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade AA butter price, as reported by the Department.

(2) *Nonfat dry milk price.* Nonfat dry milk price means the simple average for the month of the Western Nonfat Dry Milk Low/Medium Heat price, as reported by the Department.

(3) *Dry buttermilk price.* Dry buttermilk price means the simple average for the month of the Western Dry Buttermilk price, as reported by the Department.

(4) *Cheddar cheese price.* Cheddar cheese price means the simple average for the month of the National Cheese Exchange 40-pound block Cheddar cheese price, as reported by the Department.

(5) *Grade A butter price.* Grade A butter price means the simple average for the month of the Chicago Mercantile Exchange Grade A butter price, as reported by the Department.

(c) Determine the amounts by which the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk and the gross value per hundredweight of milk used to manufacture Cheddar cheese for the current month exceed or are less than the respective gross values for the preceding month.

(d) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (c) of this section by determining the rel-

ative proportion that the data included in each of the following paragraphs is of the total of the data represented in paragraphs (d)(1) and (d)(2) of this section:

(1) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for nonfat dry milk, 8.07, to determine the quantity (in hundredweights) of milk used in the production of butter-nonfat dry milk; and

(2) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for Cheddar cheese, 9.87, to determine the quantity (in hundredweights) of milk used in the production of American cheese.

(e) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (c) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (d) of this section.

[60 FR 18966, Apr. 14, 1995]

§ 1064.52 Plant location adjustments for handlers.

(a) For milk received from producers at a plant located outside the marketing area and more than 70 miles by the shortest highway distance as determined by the market administrator, from the nearer of the City Hall in Kansas City, Missouri, or Topeka, Kansas, which is classified as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section, the price computed pursuant to § 1064.50(a) shall be reduced by a per hundredweight rate of 1.7 cents for each 10 miles or fraction thereof that such plant is located from the nearer City hall.

(b) For purposes of calculating such adjustment, bulk transfers between pool plants shall be assigned to the Class I disposition at the transferee-plant prorated with the sum of receipts at such plant of producer milk and the pounds assigned as Class I to receipts

§ 1064.53

7 CFR Ch. X (1–1–98 Edition)

from other order plants and unregulated supply plants.

(c) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

[39 FR 16260, May 8, 1974, as amended at 51 FR 44591, Dec. 11, 1986]

§ 1064.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price and the Class II price for the following month, and the Class III price for the preceding month.

[60 FR 6610, Feb. 2, 1995]

§ 1064.54 Equivalent price.

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

UNIFORM PRICE

§ 1064.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1064.9(b) and (c) as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1064.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1064.44(a)(14) and the corresponding step of § 1064.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1064.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month

and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1064.44(a)(9) and the corresponding step of § 1064.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat assigned to Class I pursuant to § 1064.43(d) and the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1064.44(a)(7) (i) through (iv) and the corresponding step of § 1064.44(b), excluding receipts of bulk fluid cream products from an other order plant and bulk concentrated fluid milk products from pool plants, other order plants and unregulated supply plants;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1064.44(a)(7) (v) and (vi) and the corresponding step of § 1064.44(b); and

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat in receipts of concentrated fluid milk products assigned to Class I pursuant to §§ 1064.43(d) and 1064.44(a)(7)(i) and the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1064.44(a)(11) and the corresponding steps of § 1064.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(g) Subtract, for reconstituted milk made from receipts of nonfluid milk

products, an amount computed by multiplying \$1.00 (but not more than the difference between the Class I price applicable at the location of the pool plant and the Class III price) by the hundredweight of skim milk and butterfat contained in receipts of nonfluid milk products that are allocated to Class I use pursuant to § 1064.43(d);

(h) Exclude, for pricing purposes under this section, receipts of nonfluid milk products that are distributed as labeled reconstituted milk for which payments are made to the producer-settlement fund of another order under § 1064.76 (a)(5) or (c); and

(i) For pool plants that transfer bulk concentrated fluid milk products to other pool plants and other order plants, add or subtract the amount per hundredweight of any class price change from the previous month that results from any inventory reclassification of bulk concentrated fluid milk products that occurs at the transferee plant. Any such applicable class price change shall be applied to the plant that used the concentrated milk in the event that the concentrated fluid milk products were made from bulk unconcentrated fluid milk products received at the plant during the prior month.

[39 FR 16260, May 8, 1974, as amended at 58 FR 27848, May 11, 1993]

§ 1064.61 Computation of uniform price (including weighted average price).

For each month the market administrator shall compute in the following manner the "uniform price" (and "weighted average price") per hundredweight of milk of 3.5 percent butterfat content received from producers:

(a) Combine into one total the values computed pursuant to § 1064.60 for all handlers who filed the reports prescribed by § 1064.30 for the month and who made the payments pursuant to §§ 1064.71 and 1064.73 for the preceding month;

(b) Add an amount equal to the total value of the location adjustments computed pursuant to § 1064.75;

(c) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(d) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1064.60(f); and

(e) Subtract no less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "weighted average price," and the "uniform price" for milk received from producers.

[44 FR 7654, Feb. 7, 1979, as amended at 49 FR 23032, June 4, 1984]

§ 1064.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 12th day after the end of each month the uniform price for such month.

[39 FR 16260, May 8, 1974, as amended at 40 FR 27641, July 1, 1975]

PAYMENTS FOR MILK

§ 1064.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all funds received pursuant to paragraph (a) of this section and out of which he shall make all payments required pursuant to paragraph (b) of this section.

(a) Payments made by handlers pursuant to §§ 1064.71, 1064.76, and 1064.77.

(b) Payments due handlers pursuant to §§ 1064.72 and 1064.77: *Provided*, That payments due any handler shall be offset by payments due from such handler pursuant to §§ 1064.71, 1064.76, 1064.77, 1064.85, and 1064.86.

§ 1064.71 Payments to the producer-settlement fund.

(a) On or before the 14th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

§ 1064.72

(1) The total value of milk of the handler for such month as determined pursuant to § 1064.60.

(2) The sum of:

(i) The amount required to be paid producers (including payments to producers through cooperative associations) pursuant to § 1064.73 before adjustment for butterfat content and before deductions authorized by the producer or cooperative association or for marketing services pursuant to § 1064.86; and

(ii) The value at the weighted average price applicable at the location of the plant from which received of other source milk for which a value is computed pursuant to § 1064.60(f).

(b) [Reserved]

(c) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more marketwide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (c)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

[39 FR 16260, May 8, 1974, as amended at 40 FR 27641, July 1, 1975; 44 FR 7654, Feb. 7, 1979]

§ 1064.72 Payments from the producer-settlement fund.

On or before the 14th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1064.71 (a)(2) ex-

7 CFR Ch. X (1-1-98 Edition)

ceeds the amount computed pursuant to § 1064.71(a)(1). If at such time the balance in the producer-settlement fund is insufficient to make all payments pursuant to this paragraph, the market administrator shall reduce uniformly such payment and shall complete such payments as soon as the necessary funds are available.

[39 FR 16260, May 8, 1974, as amended at 40 FR 27641, July 1, 1975]

§ 1064.73 Payments to producers and to cooperative associations.

(a) On or before the 15th day after the end of each month during which the milk was received, to each producer for whom payment is not made pursuant to paragraph (c) or (d) of this section, at not less than the applicable uniform price pursuant to § 1064.61, adjusted by the butterfat differential computed pursuant to § 1064.74 and the location adjustment to producers pursuant to § 1064.75, and less the following amounts: (1) The payments made pursuant to paragraph (b) of this section, (2) deductions for marketing services made pursuant to § 1064.86, (3) any deductions authorized by the producer: *Provided*, That if by such date such handler has not received full payment for such month pursuant to § 1064.72 he may reduce his total payment to all producers uniformly by not less than the amount of reduction in payment from the market administrator; the handler shall, however, complete such payments not later than the date for making such payments pursuant to this paragraph next following receipt of the balance from the market administrator.

(b) On or before the 25th day of each month to each producer (1) for whom payment is not received from the handler by a cooperative association pursuant to paragraphs (c) and (d) of this section; and (2) who had not discontinued shipping milk to such handler before the 18th day of the month, a partial payment with respect to milk received from such producer during the first 15 days of the month at the approximate value of such milk, not to be less than the Class III price for the preceding month, without deduction for hauling.

(c) To a cooperative association which has filed a written request for such payment with such handler and with respect to producers for whose milk the market administrator determines such cooperative association is authorized to collect payment as follows:

(1) On or before the 20th day of the month, an amount equal to not less than the sum of the individual payments otherwise payable to producers pursuant to paragraph (b) of this section less any deductions authorized in writing by such cooperative associations; and

(2) On or before the 14th day after the end of each month an amount equal to not less than the sum of the individual payments otherwise payable to producers pursuant to paragraph (a) of this section, less proper deductions authorized in writing by such cooperative association.

(d) To a cooperative association with respect to milk for which such association is acting in the capacity of a handler pursuant to § 1064.9(c):

(1) On or before the 20th day of the month an amount equal to the rate specified in paragraph (b) of this section times the volume received during the first 15 days of the month; and

(2) On or before the 14th day after the end of each month an amount equal to not less than the value of such milk at the uniform price pursuant to § 1064.61, as adjusted pursuant to §§ 1064.74 and 1064.75, less payment made pursuant to paragraph (d)(1) of this section.

(e) In making payments to producers pursuant to paragraph (a) of this section, each handler shall furnish each producer with a supporting statement in such form that it may be retained by the producer, which shall show:

(1) The month and the identity of the handler and of the producer;

(2) The pounds per shipment, the total pounds, and the average butterfat test of milk delivered by the producer;

(3) The minimum rate or rates at which payment to the producer is required under the provisions of §§ 1064.73, 1064.74, and 1064.75;

(4) The rate which is used in making payment, if such rate is other than the applicable minimum rate;

(5) The amount or the rate per hundredweight of each deduction claimed by the handler, including any deduction claimed under paragraph (b) of this section and § 1064.86 together with a description of the respective deductions; and

(6) The net amount of payment to the producer.

(f) Each handler who receives milk from producers, payment for which is to be made to a cooperative association pursuant to paragraph (c) of this section, shall report to such cooperative association with respect to each such producer, on forms approved by the market administrator, as follows:

(1) On or before the 23rd day of the month, the total pounds of milk received during the first 15 days of the month; and

(2) On or before the seventh day after the end of the month:

(i) The pounds per shipment, the total pounds of milk and the average butterfat test of milk received from such producer during the month;

(ii) The amount or rate and nature of any deductions; and

(iii) The amount of any payments due such producer pursuant to § 1064.77.

[39 FR 16260, May 8, 1974, as amended at 44 FR 7654, Feb. 7, 1979; 49 FR 23032, June 4, 1984; 53 FR 10357, Mar. 31, 1988]

§ 1064.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.138 times the current month's butter price less 0.0028 times the preceding month's average pay price per hundredweight, at test, for manufacturing grade milk in Minnesota and Wisconsin, using the "base month" series, adjusted pursuant to §§ 1064.51 (a) through (e), as reported by the Department. The butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade A butter price, as reported by the Department.

[60 FR 18967, Apr. 14, 1995]

§ 1064.75 Plant location adjustments for producers and on nonpool milk.

(a) The uniform price pursuant to § 1064.61 for producer milk received at a pool plant or diverted from a pool plant shall be reduced according to the location of the pool plant at the rate set forth in § 1064.52, subject to § 1064.13(c).

(b) For purposes of computations pursuant to §§ 1064.71 and 1064.72 the weighted average price shall be adjusted at the rates set forth in § 1064.52 applicable at the location of the nonpool plant from which the milk was received, except that the adjusted weighted average price shall not be less than the Class III price.

[39 FR 16260, May 8, 1974, as amended at 40 FR 27642, July 1, 1975; 44 FR 7654, Feb. 7, 1979]

§ 1064.76 Payments by handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant, except a plant described in § 1064.7(d)(3), shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1064.30(b) and 1064.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk

and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted milk that are made from nonfluid milk products and which are then disposed of as route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the weighted average price, both prices to be applicable at the location of the partially regulated distributing plant (except that the Class I price and the weighted average price shall not be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of labeled reconstituted milk included in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant less \$1.00 (but not to be less than the Class III price) and the Class III price. For any reconstituted milk that is not so labeled, the Class I price shall not be reduced by \$1.00. Alternatively, for such disposition, payments may be made to the producer-settlement fund of the order regulating the producer milk used to produce the nonfluid milk ingredients at the difference between the Class I price applicable under the other order at the location of the plant where the nonfluid milk ingredients were processed (but not to be less than the Class III price) and the Class III price. This payment option shall apply only if a majority of the total milk received at the plant that processed the nonfluid milk ingredients is regulated under one or more Federal orders and payment may only be made to the producer-settlement fund of the order pricing a plurality of the milk used to produce the nonfluid milk ingredients. This payment option shall not apply if the source of the nonfluid ingredients used in reconstituted fluid milk products cannot be determined by the market administrator.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1064.60 for the partially regulated distributing plant if the plant had been a

pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to §1064.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee-plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to §1064.60 for such handler shall include, in lieu of the value of other source milk specified in §1064.60(f) less the value of such other source milk specified in §1064.71(a)(2)(ii), a value of milk determined pursuant to §1064.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to

the requirements of §1064.7(b), subject to the following conditions:

(a) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§1064.30(b) and 1064.31(b) similar reports for each such nonpool supply plant;

(b) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(c) The value of milk determined pursuant to §1064.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in §1064.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in §1064.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

(c) Any handler may elect partially regulated distributing plant status for any plant with respect to receipts of nonfluid milk ingredients assigned to Class I use under §1064.43(d). Payments may be made to the producer-settlement fund of the order regulating the producer milk used to produce the

§ 1064.77

nonfluid milk ingredients at the difference between the Class I price applicable under the other order at the location of the plant where the nonfluid milk ingredients were processed (but not to be less than the Class III price) and the Class III price. This payment option shall apply only if a majority of the total milk received at the plant that processed the nonfluid milk ingredients is regulated under one or more Federal orders and payment may only be made to the producer-settlement fund of the order pricing a plurality of the milk used to produce the nonfluid milk ingredients. This payment option shall not apply if the source of the nonfluid ingredients used in reconstituted fluid milk products cannot be determined by the market administrator.

[39 FR 16260, May 8, 1974, as amended at 44 FR 7654, Feb. 7, 1979; 58 FR 27848, May 11, 1993]

§ 1064.77 Adjustment of accounts.

Whenever audit by the market administrator of any handler's reports, books, records, or accounts discloses errors resulting in moneys due the market administrator or any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of the amount due and payment therefor shall be made within 5 days if such amount is due the market administrator, or on or before the next date for making payments to producers or a cooperative association, if such amount is due them. Whenever such audit discloses errors resulting in moneys due such handler from the market administrator, payment shall be made within 5 days.

§ 1064.78 Charges on overdue accounts.

Any unpaid obligation of a handler pursuant to §§ 1064.71, 1064.73, 1064.77, 1064.85, and 1064.86 shall be increased one-half of 1 percent on the first day of the month next following the due date of such obligation and on the first day of each month thereafter until such obligation is paid.

7 CFR Ch. X (1–1–98 Edition)

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

§ 1064.85 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 12th day after the end of the month 3 cents per hundredweight, or such lesser amount as the Secretary may prescribe, of:

(a) Producer milk (including such handler's own production);

(b) Receipts of concentrated fluid milk products from unregulated supply plants and receipts of nonfluid milk products assigned to Class I use pursuant to § 1064.43(d) and other source milk allocated to Class I pursuant to § 1064.44 (a)(7) and (a)(11) and the corresponding steps of § 1064.44(b), except such other source milk that is excluded from the computations pursuant to § 1064.60 (d) and (f); and

(c) Class I milk disposed of from a partially regulated distributing plant (except from a plant described in § 1064.7(d)(3)) as route disposition in the marketing area that exceeds the skim milk and butterfat subtracted pursuant to § 1064.76(a)(2).

[39 FR 16260, May 8, 1974, as amended at 58 FR 27849, May 11, 1993]

§ 1064.86 Deduction for marketing services.

(a) *Deductions.* Except as set forth in paragraph (b) of this section, each handler in making payments to producers other than himself pursuant to § 1064.73(a), shall deduct 6 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to all milk received by such handler from producers during the month, and shall pay such deductions to the market administrator on or before the 12th day after the end of such month. Such moneys shall be used by the market administrator to verify weights, samples, and tests of milk received from and to provide market information to such producers.

(b) *Deductions with respect to members of a cooperative association.* In the case of producers for whom a cooperative association is actually performing, as

determined by the Secretary, the services set forth in paragraph (a) of this section, each handler shall, in lieu of the deductions specified in paragraph (a) of this section, make such deductions from the payments to be made directly to producers pursuant to § 1064.73(a), as are authorized by such producers, and on or before the 12th day after the end of each month, pay over such deductions to the association of which such producers are members, accompanied by a statement showing the amount of the deduction and the quantity of milk for which it was computed for each such producer.

PART 1065—MILK IN THE NEBRASKA-WESTERN IOWA MARKETING AREA

Subpart—Order Regulating Handling

GENERAL PROVISIONS

Sec.

1065.1 General provisions.

DEFINITIONS

1065.2 Nebraska-Western Iowa marketing area.
 1065.3 Route disposition.
 1065.5 Distributing plant.
 1065.6 Supply plant.
 1065.7 Pool plant.
 1065.8 Nonpool plant.
 1065.9 Handler.
 1065.10 Producer-handler.
 1065.12 Producer.
 1065.13 Producer milk.
 1065.14 Other source milk.
 1065.15 Fluid milk product.
 1065.16 Fluid cream product.
 1065.17 Filled milk.
 1065.18 Cooperative association.
 1065.19 Commercial food processing establishment.

HANDLER REPORTS

1065.30 Reports of receipts and utilization.
 1065.31 Payroll reports.
 1065.32 Other reports.

CLASSIFICATION OF MILK

1065.40 Classes of utilization.
 1065.41 Shrinkage.
 1065.42 Classification of transfers and diversions.
 1065.43 General classification rules.
 1065.44 Classification of producer milk.
 1065.45 Market administrator's reports and announcements concerning classification.

CLASS PRICES

1065.50 Class and component prices.
 1065.51 Basic formula price.
 1065.52 Plant location adjustments for handlers.
 1065.53 Announcement of class and component prices.
 1065.54 Equivalent price.

PRODUCER PRICE DIFFERENTIAL

1065.60 Handler's value of milk.
 1065.61 Producer price differential.
 1065.62 Announcement of producer prices.

PAYMENTS FOR MILK

1065.70 Producer-settlement fund.
 1065.71 Payments to the producer-settlement fund.
 1065.72 Payments from the producer-settlement fund.
 1065.73 Payments to producers and to cooperative associations.
 1065.74 Butterfat differential.
 1065.75 Plant location adjustments for producers and on nonpool milk.
 1065.76 Payments by handler operating a partially regulated distributing plant.
 1065.77 Adjustment of accounts.
 1065.78 Charges on overdue accounts.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

1065.85 Assessment for order administration.
 1065.86 Deduction for marketing services.

ADVERTISING AND PROMOTION PROGRAM

1065.105 Dairy research and promotion order.
 1065.106 Qualified program.
 1065.107 Deduction for advertising and promotion programs.
 1065.110 Agency.
 1065.111 Composition of Agency.
 1065.112 Term of office.
 1065.113 Selection of Agency members.
 1065.114 Agency operating procedure.
 1065.115 Powers of the Agency.
 1065.116 Duties of the Agency.
 1065.117 Advertising, research, education, and promotion program.
 1065.118 Limitation of expenditures by the Agency.
 1065.119 Personal liability.
 1065.120 Procedure for requesting refunds.
 1065.121 Duties of the market administrator.
 1065.122 Liquidation.

AUTHORITY: Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

SOURCE: 39 FR 16273, May 8, 1974, unless otherwise noted.